

Rulemaking Hearing Rules
of the
Tennessee Department of Human Services

Adult and Family Services Division

Chapter 1240-4-3

Licensure Rules for Child Care Centers Serving Pre-School Children

Amendments

Part 2 of subparagraph (c) of paragraph (1) of Rule 1240-4-3-.10, Transportation, is amended by deleting part 2 in its entirety and by substituting the following new language so that, as amended, part 2 shall read as follows:

2. Health Examinations and Drug Screenings.

(i) Health Examinations.

All persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual, that are signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician's Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.

(ii) Drug Screenings.

(I) Any person, in accordance with procedures established by the Department, shall pass a drug screen:

- I.** Prior to such person being employed as a full or part-time employee with a licensed or approved child care agency for a position which has any duties involving driving any vehicle utilized by the child care agency to transport children enrolled in that child care agency; or
- II.** Prior to such person being employed, in any position which has any duties involving driving any vehicle utilized to transport children enrolled in any child care agency, as a full-time or part-time employee by a contractor of a licensed or approved child care agency, or by any other persons or entities, any of which transports, for any compensation, children enrolled in the care of the child care agency as part of the agency's transportation program or service for such children offered by such child care agency; or
- III.** Prior to the assumption, at anytime, of any driving duties by an existing full-time or part-time employee of the licensed or approved child care agency, or, of an existing full-time or part-time employee of a contractor or other person or entity

providing transportation, for compensation, to the child care agency as part of such child care agency's transportation program or service.

- (II) Effective January 1, 2004, all existing drivers who have been previously assigned by the child care agency or its contractors or by any other person or entity as a driver of any vehicle providing child care transportation for a licensed or approved child care agency, under any arrangement and who have not been tested as required by item (I), shall have a drug screen in accordance with procedures established by the Department.
- (iii) The child care agency shall immediately review the results of the drug screen upon receipt, and upon receipt by the child care agency of a positive drug screen result for an employee of the child care agency, or upon receipt of notification of such result for a tested individual from a contractor or other person or entity providing transportation, for compensation, to the child care agency as part of such child care agency's transportation program or service, the child care agency shall immediately:
 - (I) Notify the Department and prohibit, or require its contractor or other entity providing transportation for compensation to the child care agency as part of the child care agency's transportation program to prohibit, the individual from any driving duties involving any transportation of children enrolled in the child care agency; and
 - (II) Enter into a safety plan approved by the Department that excludes the individual from driving for the child care agency until the individual passes a drug screen test and is otherwise approved, in writing, by the Department, to provide driving duties involving the transportation of children for the child care agency.

Authority: TCA §§ 4-5-202; 71-3-501 et seq.

Legal Contact or Party who will approve final copy:

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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules

A. F. Turner
Anne F. Turner, Director
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Tennessee Department of Human Services

Glenda Shearon
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Adult & Family Services
Tennessee Department of Human Services

Virginia T. Lodge
Virginia T. Lodge, Commissioner
Tennessee Department of Human Services

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Human Services on the 27th day of September 2004.

Further, I certify that the provisions of TCA § 4-5-222 have been fully complied with, that these rules are properly presented for filing, a notice of rulemaking hearing was filed in the Department of State on the 30th day of January, 2004 and such notice of rulemaking hearing having been published in the February 15, 2004 issue of the Tennessee Administrative Register, and such rulemaking hearings having been conducted pursuant thereto on the 22nd, 24th and 25th of March, 2004.

William B. Russell
General Counsel
Tennessee Department of Human Services

Subscribed and sworn to before me this the 27th day of September, 2004

Notary Public

My commission expires on the August 20, 2006 day of August

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G. Summers
Paul G. Summers
Attorney General and Reporter

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 18 day of Oct., 2004 and will become effective on the 1 day of Jan., 2005

Riley C. Dancil
Riley C. Dancil
Secretary of State

By: M. M. M. M.

RE

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CLERK OF STATE